



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0261]

RIN 1625-AA87

Security Zone; USCGC MUNRO Commissioning Ceremony Elliott Bay; Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 300 yard temporary security zone in the navigable waters of Elliott Bay, Seattle, WA, around the U.S. Coast Guard Cutter MUNRO at Pier 91 within the Sector Puget Sound Captain of the Port Zone. The security zone is necessary to ensure the security of the USCGC MUNRO from sabotage or other subversive acts during its commissioning ceremony at Pier 91. The safety zone will prohibit any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or her Designated Representative.

DATES: This rule is effective from 6 a.m. until 6 p.m. on April 1, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0261 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management

Branch, U.S. Coast Guard; telephone 206-217-6051, email
SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable as delayed promulgation may jeopardize the security of the commissioning ceremony.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the commissioning ceremony will occur on April 1, 2017, and this rule must be effective to ensure the security of this high profile event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.1 which collectively authorizes the Coast Guard to establish security zones. The Captain of the Port, Puget Sound has determined that potential threats of sabotage and other subversive acts associated with the USCGC MUNRO commissioning ceremony on April 1, 2017, will be a security concern for anyone within a 300 yard radius of USCGC MUNRO at Pier 91 in Seattle, WA. This rule is needed to protect personnel and vessels in the navigable waters within the security zone while the commissioning ceremony takes place.

IV. Discussion of the Rule

This rule establishes a temporary security zone that will be enforced from 6 a.m. though 6 p.m. on April 1, 2017. The security zone will cover all navigable waters within 300 yards of USCGC MUNRO at Pier 91 in Seattle, WA. The duration of the zone is intended to protect personnel and vessels in these navigable waters while the commissioning ceremony takes place. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative while the zone is subject to enforcement. Vessels wishing to enter the security zone must request permission to do so from the Captain of the Port, Puget Sound by contacting the Joint Harbor Operations Center at 206-217-6001 or the on-scene patrol craft, if any, via VHF-FM Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these

statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the security zone. Vessel traffic will be able to safely transit around this security zone which will impact a small designated area of the Elliott Bay in Seattle, WA for 12 hours and during a time of year when vessel traffic is normally low. Public, commercial, and privately owned vessels impacted by the security zone may request Captain of the Port, Puget Sound or his Designated Representative permission to transit through the security zone by contacting the Joint Harbor Operation Center 206-217-6001 or the on-scene patrol craft on VHF Ch. 16. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard

in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone lasting 12 hours that will prohibit entry within 300 yards of USCGC MUNRO at Pier 91 in Seattle, WA. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and

160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-0261 to read as follows:

§ 165.T13-0261 Security Zone; USCGC MUNRO Commissioning Ceremony Elliott Bay, Seattle, WA.

(a) Location. The following area is a security zone: All navigable waters of Elliott Bay within 300 yards of the USCGC MUNRO while moored at Pier 91.

(b) Definitions. The following definitions apply to this section:

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound (COTP) in the enforcement of the security zone identified in paragraph (a) of this section.

(c) Regulations. The general regulations governing security zones contained in § 165.33 apply to the security zone identified in paragraph (a) of this section.

(1) During the enforcement period, entry into, transit through, remaining within, or movement within this temporary zone is prohibited unless authorized by the Captain of the Port Puget Sound or her designated representative.

(2) To seek permission to enter the security zone contact the Captain of the Port or her designated representative via the Joint Harbor Operations Center at (206) 217-6001 or the on-scene patrol craft on VHF Ch 16 to obtain permission to do so.

(3) Vessel operators given permission to enter or operate in the security zone must comply with all directions given to them by the COTP or her designated representatives.

(4) The Coast Guard may be assisted by other federal, state, or local agencies in

patrol and notification of this regulation.

(d) Enforcement period. This section will be enforced from 6 a.m. to 6 p.m. on April 1, 2017.

Dated: March 24, 2017

L. A. Sturgis,
Captain, U.S. Coast Guard,
Captain of the Port Puget Sound.

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